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SCHOOL OF VETERINARY MEDICINE  
LIMITED

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

DAVID T. TRAN,

Plaintiff,

v.

ROSS UNIVERSITY SCHOOL OF  
MEDICINE,

Defendant.

Case No. 5:17-cv-00583 JGB(DTBx)

**DEFENDANT'S  
SECOND UNOPPOSED  
MOTION TO CONTINUE  
HEARING ON DEFENDANT'S  
MOTION TO DISMISS UNDER  
FRCP 12(b)(2) AND 12(b)(6)**

Judge: Hon. Jesus G. Bernal  
Date Action Filed: March 27, 2017  
Hearing Date: **December 11, 2017**  
Requested New Date: March 19, 2018

1 Pursuant to the Court's Procedures, Defendant respectfully requests that the  
2 hearing on its motion to dismiss (Dkt. No. 18) be continued from December 11, 2017, to  
3 March 19, 2018. In support of its motion, Defendant states as follows:

4 Defendant filed a motion to dismiss this lawsuit in its entirety for, among other  
5 reasons, lack of personal jurisdiction over Defendant and set the hearing on its motion to  
6 dismiss for October 23, 2017. Accordingly, Plaintiff's opposition to the motion to dismiss  
7 originally was due October 2, 2017. Rather than file an opposition, Plaintiff filed a  
8 motion to transfer venue to the U.S. District Court for the Southern District of Florida  
9 (Dkt. No. 26) and set the hearing on that motion to transfer venue for December 11, 2017.

10 In that initial motion to transfer venue, Plaintiff effectively conceded that the Court  
11 does not possess personal jurisdiction over Defendant. To begin with, he moved to  
12 transfer venue under 28 U.S.C. 1406(a), which applies only to cases "laying venue in the  
13 wrong division or district." In addition, in the body of his motion to transfer venue, he  
14 admitted that this venue "is improper," (Pl. Mot. [Dkt. No. 26] 2:1-2), stated that he  
15 "acknowledges or is fearful that the lack of personal jurisdiction would dismiss the case,"  
16 (*Id.* at 3:15-16), stated that he "is strongly doubtful of whether or not California has  
17 personal jurisdiction over the defendant," (*Id.* at 5:3-5), and "concede[d] to the fact [that  
18 this Court is the "'wrong' court"] when reading defendant's demurrer," (*Id.* at 5:6-8).

19 As a result, the only question before the Court, following the filing of Plaintiff's  
20 initial motion to transfer venue, was whether the Court should dismiss this lawsuit  
21 altogether or transfer it to the U.S. District Court for the Southern District of Florida, as  
22 Plaintiff requested.

23 Given the overlap in the issues being presented by the two motions (indeed, the  
24 situation was such that one or the other should be granted), there was good cause to  
25 continue the hearing on Defendant's motion to dismiss from October 23, 2017, to the  
26 same date on which the Court was scheduled to hear Plaintiff's motion to transfer venue,  
27 *i.e.*, December 11, 2017.  
28

1 Accordingly, Defendant filed an unopposed motion to continue the hearing on its  
2 motion to dismiss. (Dkt. No. 27.) The Court granted the motion and reset the hearing to  
3 December 11, 2017. (Dkt. No. 28.)

4 Defendant subsequently filed its opposition to Plaintiff's motion to transfer venue  
5 on November 8, 2011. (Dkt. No. 29.) Pursuant to L.R. 7-10, Plaintiff's reply brief (if any)  
6 was due November 27, 2017, but Plaintiff did not file any such brief. Accordingly,  
7 because Defendant believed the parties' papers sufficiently set forth the parties' positions,  
8 the undersigned counsel for Defendant e-mailed Plaintiff on November 28, 2017, to ask if  
9 he would agree, pursuant to L.R. 7-15, to file a joint request to waive oral argument.  
10 Plaintiff responded by informing Defendant's counsel that he would not agree to such a  
11 waiver because he planned to file a new motion to transfer venue, this time to the U.S.  
12 District Court for the District of New Jersey.

13 On December 4, 2017, the undersigned counsel for Defendant spoke with Plaintiff  
14 and confirmed that Plaintiff planned to withdraw his motion to transfer venue to the U.S.  
15 District Court for the Southern District of Florida (which he did on December 4, 2017,  
16 Dkt. No. 30). Defendant's counsel and Plaintiff also discussed the fact that it seemed  
17 unnecessary to appear on December 11, 2017, for a hearing on Defendant's motion to  
18 dismiss, given that no opposition or competing motion would be on file at that time and  
19 given that the only planned opposition was a new motion to transfer to a different venue,  
20 which Plaintiff stated that he planned to file sometime the week of December 11, 2017.

21 Based on the reasons provided by Plaintiff in his conference with Defendant's  
22 counsel on December 4, 2017, for his assertion that the New Jersey courts (unlike this  
23 Court or the Florida courts) would have personal jurisdiction over Defendant in this case,  
24 Defendant intends to oppose Plaintiff's new, yet-to-be-filed motion to transfer venue to  
25 the U.S. District Court for the District of New Jersey.

26 The undersigned counsel for Defendant is the lawyer who will be primarily  
27 responsible for Defendant's opposition brief, and he will appear at the hearing on both  
28 parties' motions should the Court deem a hearing necessary; however, he will not be in a

1 position to turn his attention to an opposition brief until mid-February. Specifically, he  
 2 will be in Idaho (or traveling to and from Idaho) for three depositions the week of  
 3 December 18, 2017, on vacation the week of December 25, 2017, and largely occupied  
 4 with two labor arbitrations, a National Labor Relations Board hearing, his bi-annual  
 5 partnership meeting, and four significant court filings already on his calendar between  
 6 January 1 and February 9, 2018. Accordingly, Defendant's counsel asked Plaintiff during  
 7 their discussion on December 4, 2017, whether Plaintiff would agree to set the hearing on  
 8 his new motion to transfer venue for a Monday in March 2018, in which case Defendant  
 9 would move to continue the hearing on its motion to dismiss to the same date. Plaintiff  
 10 suggested March 19, 2018, and Defendant agreed.

11 **FOR ALL THE FOREGOING REASONS**, Defendant respectfully requests that  
 12 the hearing on its motion to dismiss (Dkt. No. 18) be continued to March 19, 2018.

13 DATED: December 6, 2017

Respectfully submitted,

SEYFARTH SHAW LLP

16 By: *s/Brian Stolzenbach*  
 17 Brian Stolzenbach  
 18 Counsel for Defendant  
 19 ROSS UNIVERSITY SCHOOL  
 20 OF MEDICINE, SCHOOL OF  
 21 VETERINARY MEDICINE LIMITED